



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

JUN 21 2005

Dan Knepper
Vice President, Energy Operations
Cenex Harvest
803 Highway 212 South
Laurel, MT 59044

Re: CPF No. 5-2003-5012

Dear Mr. Knepper:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation and assesses a civil penalty for those violations. I acknowledge your wire transfer dated February 17, 2004, for \$25,000 as payment in full of the civil penalty assessed in the Final Order. The Final Order acknowledges your completion of the proposed compliance order items to comply with the pipeline safety regulations and your submission of amended procedures addressing the inadequacies cited in the Notice.

This case is now closed. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Sincerely,

James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

CERTIFIED MAIL RETURN RECEIPT REQUESTED

DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, DC 20590

In the Matter of)

Cenex Harvest,)

Respondent.)

CPF No. 5-2003-5012

FINAL ORDER

On June 3, 2003, the Director, Western Region, Office of Pipeline Safety, issued Respondent a Notice of Probable Violation, Proposed Compliance Order, Proposed Civil Penalty and Notice of Amendment (Notice) in accordance with 49 C.F.R. § 190.207. The Notice proposed assessing a civil penalty of \$25,000 for the alleged violation of 49 C.F.R. 195.401(a) and proposed specific actions that Respondent take to comply with the requirements of Part 195. The Notice also proposed that Respondent amend its operating and maintenance procedures.

Respondent submitted a request by letter dated June 30, 2003, for a 60-day extension to respond to the Notice, which the Director, Western Region, OPS granted. Respondent responded to the Notice by letter dated August 29, 2003, and did not contest the allegations, the amount of the proposed civil penalty, the proposed compliance order, or the notice of inadequate procedures. Respondent submitted a wire transfer in the amount of the proposed civil penalty (\$25,000), waiving further right to respond, and authorizing the entry of this Final Order.

FINDINGS OF VIOLATION

Pursuant to § 190.209(a)(1) and 49 U.S.C. § 60122, I find that Respondent violated the following sections of 49 C.F.R. Part 195 as described more completely in the Notice:

195.401(a) (Item 1) – failing to properly locate an active product pipeline during a replacement project in Glendive, Montana, resulting in the striking and rupture of that pipeline by Respondent's contractor during horizontal directional drilling;

195.428(a) (Item 6) – failing to collect testing and calibration records for overpressure safety devices on the Front Range Pipeline from the Canadian border to the Santa Rita pump station; and

195.567(b)(1) (Item 8) – failing to install a cathodic protection test lead at the Mile Post 172.1 casing, in order to have leads at intervals frequent enough to obtain electrical measurement demonstrating the adequacy of the cathodic protection system.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent. Having reviewed the record and considered the assessment criteria, I assess the civil penalty of \$25,000 for the violation of 49 C.F.R. 195.401(a), already paid by Respondent.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 6 and 8 in the Notice for violations of 49 C.F.R. §§ 195.428(a) and 195.567(b)(1). Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under Chapter 601. The Regional Director has indicated that Respondent has begun collecting adequate overpressure device testing and calibration records for the Canadian border to the Santa Rita pump station segments of the Front Range Pipeline and has installed a test lead at Mile Post 172.1 to comply with the proposed compliance order. Accordingly, since compliance has been achieved with respect to this violation, the compliance terms are not included in this Order.

AMENDMENT OF PROCEDURES

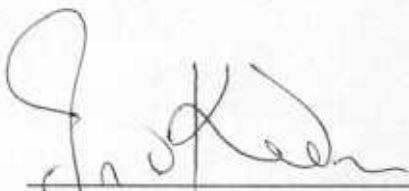
The Notice also alleged that certain of Respondent's procedures were inadequate (Items 5 and 7). Respondent submitted amended procedures for the Western Region to review. The Director, Western Region, OPS has indicated that Respondent's amended procedures address the inadequacies cited in the Notice. Accordingly, I find that Respondent's original procedures as described in the Notice were inadequate to ensure safe operation of its pipeline system, but that Respondent has corrected the identified inadequacies.

WARNING ITEMS

The Notice did not propose a civil penalty or corrective action for failing to update drawings for the Santa Rita pump station after construction and prior to operation of the 8-inch Santa Rita to Cutbank pipeline (Item 2); failing to document repairs to previously-noted stem valve deficiencies (Item 3); failing to have adequate markers at several locations along the pipeline right-of-way (Item 4); and failing to consider and account for voltage drop at one location when conducting pipe-to-soil potential cathodic protection monitoring surveys (Item 9). Therefore, these are considered warning items. Respondent is warned that if it does not take appropriate action to correct these items, enforcement action will be taken if a subsequent inspection reveals a violation.

The terms and conditions of this Final Order are effective on receipt. This case is now closed.

for



Stacey Gerard
Associate Administrator
for Pipeline Safety

JUN 21 2005

Date Issued